

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 2, 6-13, 17-26, and 30-45 are pending in the application, with claims 1, 13, and 25 being the independent claims. Claims 1, 13, 25, 26, 30-36, 39, 42, and 45 are sought to be amended. Applicant reserves the right to prosecute similar or broader claims, with respect to the amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

The claims presented in this Application should be interpreted solely based on the file history of this Application, not the file history of any predecessor or related application. With respect to this application, Applicant hereby rescinds any and all disclaimers of claim scope made in any parent application(s), any predecessor application(s), and any related application(s). The Examiner is advised that any previous disclaimer of claim scope, if any, and any references that allegedly caused any previous disclaimer of claim scope, may need to be revisited. Nor should any previous disclaimer of claim scope, if any, in this Application be read back into any predecessor or related application.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Statement of Substance of Interview

Pursuant to 37 C.F.R. § 1.133, Applicant provides the following statement of substance of the interview. Applicant expresses their appreciation to Chan, Sai Ming for the courtesy of a telephonic interview with Applicant's representatives on August 24, 2010.

During the interview, Applicant's representatives and the Examiner discussed United States Patent Publication No. 2002/0136203 to Liva et al. (herein "Liva"). No agreement was reached by the Applicant's representatives and the Examiner.

Rejections under 35 U.S.C. § 103

Claims 1, 2, 6, 7, 9, 11, 12, 25, 26, 30, 31, 33, 35-37, 39, 40, 42, 43, and 45

Claims 1, 2, 6, 7, 9, 11, 12, 25, 26, 30, 31, 33, 35-37, 39, 40, 42, 43, and 45 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lind in view of United States Patent Publication No. 2002/0136203 to Liva et al. ("Liva"). Applicant respectfully traverses the rejection and provides the following arguments to support patentability.

This Application discloses establishing of logical upstream channels to support future communication between a cable modem termination system (CMTS) and cable modems that implement one or more proprietary features. (Specification, ¶ [0047] - [0063].) These one or more proprietary features are not provided for, or permitted by, DOCSIS. (Specification, ¶ [0041].) More specifically, the CMTS communicates with a cable modem to determine whether the cable modem supports proprietary features. (Specification, ¶ [0052].) If the cable modem supports proprietary features, then the

CMTS gathers a list of the proprietary features from the cable modem. (Specification, ¶¶ [0052] - [0053].) The CMTS then uses the list to determine if the cable modem can be placed in an existing logical channel that supports the proprietary features. (Specification, ¶ [0054].) If the cable modem cannot be placed into the existing logical channel, the CMTS evaluates all the currently registered cable modems, including the cable modem and other cable modems supporting the proprietary feature, that support the proprietary features and determines if a new proprietary logical channel should be created for all the currently registered cable modems that support the proprietary features. (Specification, ¶ [0054].) The CMTS then creates the new proprietary logical channel when a number of the currently registered cable modems that support the proprietary features and that have not been placed into the existing logical channel ("unplaced cable modems") reaches a predetermined number.

The Examiner, in the "Response to Arguments" section in the Office Action, Applicant's arguments as the Amendment and Reply Under 37 C.F.R. § 1.111, filed on May 13, 2010, as "simply claiming when the number of subscribers reaches any number, then make a new channel." (Office Action, p. 11.) However, this characterization of Applicant's claim is incorrect. Independent claim 1 each recites at least the feature of *"creating a new proprietary logical channel when said predetermined number of currently registered devices support said at least one proprietary communication parameter."* Independent claims 13 and 25 each recite substantially similar features as independent claim 1. These features of independent claim 1, 13, and 25 do not create a new proprietary logical channel when any number of currently registered devices support the proprietary communication parameter as characterized by the Examiner. Rather,

these features of independent claims 1, 13, and 25 create a new proprietary logical channel when a predetermined number of currently registered support the proprietary communication parameter.

However, to expedite prosecution of this Application, Applicant has amended independent claims 1, 13, and 25 to further clarify that independent claims 1, 13, and 25 creates the new proprietary logical when the predetermined number of currently registered support the proprietary communication parameter. In particular Applicant has amended independent claim 1 to recite at least this feature of *"determining whether a predetermined number of currently registered devices support said at least one proprietary communication parameter when said second device cannot be assigned to said one of said one or more proprietary logical channels."* Applicant has amended independent claims 13 and 25 in a substantially similar manner. These newly added features of independent claims 1, 13, and 25 recite a determination of whether the unplugged cable modems reaches a predetermined number before creation of the new proprietary logical channel. Support for these newly added features may be found at ¶ [0054], as well as elsewhere, in the Specification as filed on October 10, 2003.

Applicant believes that neither Lind nor Liva alone, nor any combination thereof, teaches or suggests these newly added features of independent claims 1, 13, and 25. In particular, the Office Action correctly acknowledges that Lind does not specifically disclose suggests at least the features of *"creating a new proprietary logical channel when a predetermined number of currently registered devices support said at least one proprietary communication parameter"* of independent claims 1, 13, and 25. (Office Action, p. 3.) Likewise, Liva discloses "[n]ode recombining (e.g., manual recabling to

pair a new logical channel with a new line card) has often been necessary whenever an existing subscriber channel reaches capacity and additional channels need to be assigned." (Lind, ¶ [0012].) Nowhere does Liva teach or suggest determining whether a predetermined number of the subscribers using the existing subscriber channel of Liva cannot be assigned to the existing subscriber channel before creation of an additional subscriber channel as recited by independent claims 1, 13, and 25.

Accordingly, Lind or Liva alone, or any combination thereof, does not teach or suggest each and every feature of independent claims 1, 13, and 25. Consequently, a combination of Lind and Liva does not render independent claims 1, 13, and 25 obvious. Dependent claims 2, 6, 7, 9, 11, 12, 26, 30, 31, 33, 35-37, 39, 40, 42, 43, and 45 are likewise not rendered obvious by the combination of Lind and Liva for the same reasons as the independent claims from which they respectively depend and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 1, 2, 6, 7, 9, 11, 12, 25, 26, 30, 31, 33, 35-37, 39, 40, 42, 43, and 45 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Claims 8, 10, 13, 17-24, 32, 34, 38, 41, and 44

Claims 8, 10, 13, 17-24, 32, 34, 38, 41, and 44 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lind in view of Liva and in further view of one or more of the following:

United States Publication Patent No. 2005/0025145 to Rakib et al.
("Rakib"); and

United States Publication Patent No. 2004/000863 to Cloonan et al.
("Cloonan").

Applicant respectfully traverses the rejection and provides the following arguments to support patentability.

From the discussion above, the combination of Lind and Liva does teach or suggest each and every feature of independent claims 1 and 25. Independent claim 13 recites substantially similar features as independent claim 1 that are likewise not taught or suggested by the combination of Lind and Liva. Rakib or Cloonan alone, or any combination thereof, does not provide the missing teachings or suggestions with respect to independent claims 1, 13, and 25 nor does the Office Action so allege. Therefore, the combination of Lind, Liva, and one or more of Rakib and Cloonan does not render these independent claims obvious. Dependent claims 8, 10, 17-24, 32, 34, 38, 41, and 44 are likewise not rendered obvious by the combination of Lind, Liva, and one or more of Rakib and Cloonan for the same reasons as the independent claims from which they respectively depend and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 8, 10, 13, 17-24, 32, 34, 38, 41, and 44 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Reply to Office Action of August 21, 2009

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Appl. No. 10/682,536

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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